



LIST OF TANGIBLE PERSONAL PROPERTY AND SERVICES SUBJECT TO SALES AND USE TAX



Published by
THE COMPTROLLER OF MARYLAND
MARCH 18, 2021

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I. Introduction

The following is a list of tangible personal property and services the sale of which is subject to sales and use tax. This is not a complete list but may be used as a guide in determining the taxability of tangible personal property and services. This list is published pursuant to Maryland Tax-General Article §11-109.

A rebuttable presumption exists that any sale in Maryland is subject to sales and use tax. Whether a sale of a particular good or a service is taxable depends on many factors. You should consult the applicable law, regulation, and the Comptroller's tax publications for more detailed explanations of property and services that are subject to sales and use tax.

The Comptroller's office is required to update and detail any additions, deletions, and revisions to the publication pursuant to Maryland Tax-General Article §11-109(b). The Comptroller's office has made the following additions, deletions, and revisions since the last quarterly publication:

- Pursuant to House Bill 723, the sales and use tax rate has been increased to 12% on sales of electronic smoking devices. Title III. Tangible Personal Property, section Y. Tobacco Products has been revised. The sales tax rate increase on electronic smoking devices is effective March 14, 2021;
- Pursuant to House Bill 923, the sales and use tax applies to sales of digital products and digital code effective March 14, 2021. Title III. Tangible Personal Property, section E. Books, Magazines, Newspapers, Periodicals and other Products has been revised and Title IV. Digital Products and Digital Code has been added to this publication.
- Title III. Tangible Personal Property, section H. Computer Hardware and Software has been revised because the sale of digital products and digital is now subject to the sales and use tax on March 14, 2021;
- The taxation of electricity sold to charge electric vehicles has been added to Title III. Tangible Personal Property, section Z. Electricity, Fuel, Utilities and Equipment. The addition is not the result of a new bill or policy of the Comptroller's office. The addition is in response to questions received by the Comptroller's office about this guide.

Comments about the content of this publication may be sent to sutguide@marylandtaxes.gov.

II. Services

Charges for services are generally exempt from Maryland sales and use tax unless they are specifically taxable under Maryland law.

A. Taxable Services

Maryland law states that a charge for the following services is subject to sales and use tax:¹

- Fabrication, printing, or production of tangible personal property by special order
- Commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles
- Cleaning of a commercial or industrial building
- Cellular telephone or other mobile telecommunications service
- “900”, “976”, “915”, and other “900”-type telecommunications service
- Custom calling service provided in connection with basic telephone service
- Telephone answering service
- Pay per view television service
- Credit reporting
- Security service, including a:
 - Detective, Guard, or Armored Car Service; and
 - Security Systems Service
- Transportation service for transmission, distribution, or delivery of electricity or natural gas, if the sale or use of the electricity or natural gas is subject to the sales and use tax
- Prepaid telephone calling arrangement²
- Privilege given to an individual to consume wine that is not purchased from or by a restaurant, club, or hotel

Maryland law also states that a charge for a mandatory gratuity or service charge in the nature of a tip for serving food or any type of beverage to a group of more than 10 individuals is subject to sales and use tax.³

¹ Tax-General Article § 11-101(m).

² Please see Tax-General Article § 11-108 for additional information on the sale or recharge of a prepaid telephone calling arrangement.

³ Tax-General Article § 11-104(i).

B. Nontaxable Services

Maryland law states that a charge for the following services is not part of taxable price and thus, is not subject to sales and use tax:⁴

- A personal, professional, or insurance service, that is not a defined taxable service and involves a sale as an inconsequential element for which no separate charge is made.
- Custom computer services
- A delivery, freight, or other transportation service for delivery directly to the buyer by the vendor or by another person acting for the vendor, unless the transportation service is a taxable service
- A labor or service for application or installation
- A finance charge, interest, or similar charge for credit extended to the buyer
- A mandatory gratuity or service charge in the nature of a tip for serving food or beverage to a group of 10 or fewer individuals for consumption on the premises of the vendor
- Any service for the operation of equipment used for the production of audio, video, or film recording
- Fabrication, processing, or service by a sawmill, of wood products for mine use in which the miner retains title⁵

The charge for labor to repair or alter existing tangible personal property belonging to another for the purpose of restoring the property to its original condition or usefulness is not subject to sales and use tax.⁶

III. Tangible Personal Property

Sales of tangible personal property are subject to Maryland sales and use tax unless they are specifically exempt under Maryland law.⁷

⁴ Tax-General Article § 11-101(l); see COMAR 03.06.01.08.

⁵ Tax-General Article § 11-212(1).

⁶ COMAR 03.06.01.03.

⁷ Tangible personal property is defined as “corporeal personal property of any nature.” Tax-General Article § 11-101(k)(1)

Maryland law specifically states that the following items are tangible personal property.⁸ Thus, the sale of these items is subject to sales and use tax:

- An accommodation.
- Farm equipment⁹
- Wall-to-wall carpeting installed into real estate
- Coal
- Electricity
- Oil
- Nuclear fuel assemblies
- Steam
- Artificial gas
- Natural gas

A. Aircraft

The sale of aircraft is subject to sales and use tax. However, there is an exemption for the sale of aircraft used primarily to cross state lines in interstate or foreign commerce, as well as to the sale of a replacement part or other tangible personal property to be used physically in, on, or by that aircraft.¹⁰

In addition, the sale of materials, parts, or equipment used to repair, maintain or upgrade an aircraft or the avionics systems of an aircraft if installed on an aircraft that has a maximum gross takeoff weight of less than 12,500 pounds is exempt from sales and use tax.¹¹ The exemption does not apply to the sale of equipment and tools used to perform the work. The sale of materials, parts, or equipment used to repair, maintain or upgrade aircraft that is installed on an aircraft that has a maximum weight of 12,500 pounds or more is subject to sales and use tax unless that aircraft is used principally to cross state lines in interstate or foreign commerce.¹²

B. Accommodations

The sale of an accommodation is subject to sales and use tax. An accommodation is the right to occupy a room or lodgings as a transient guest. A sale of an accommodation is

⁸ Tax-General Article § 11-101(k).

⁹ Please see Title III, C. of this document.

¹⁰ Tax-General Article 11-208(c); COMAR 03.06.01.26.

¹¹ Chapter 638 of the Acts of 2020 is effective July 1, 2020.

¹² Chapter 638 of the Acts of 2020.

taxable whether made by an accommodation provider,¹³ an accommodations intermediary,¹⁴ or any other vendor. For more information on determining whether sales of accommodations are subject to sales and use tax, please Maryland Sales and Use Tax Alert 05-16.

Dorchester County

A hotel surcharge of 2.5% is imposed, in addition to sale and use tax, in Dorchester County on the sale of a right to occupy a room or lodgings as a transient guest in an establishment that offers at least 380 rooms.¹⁵

Lodging at Corporate Training Center

An exemption applies to sales of the right to occupy a room at corporate training center.¹⁶

C. Agricultural and Farming Supplies and Equipment

The sale of certain items is exempt from sales and use tax if used for agricultural purposes.¹⁷ Unless used for another purpose, the following items are exempt:

- Livestock
- Feed or bedding for livestock
- Seed, fertilizer, fungicide, herbicide, or insecticide
- Baler twine or wire
- Fuel for use in farm equipment or a farm tractor
- Sales of agricultural products by a farmer

The sale of the following items is exempt from sales and use tax if bought by a farmer *and* used for an agricultural purpose:

- Container to transport farm products that the farmer raises to market
- Farm vehicle, as defined in § 13-911(c) of the Transportation Article, when used in farming
- Milking machine, when used in farming

¹³ “Accommodations provider” means a person who owns, operates, or manages an accommodation and makes the accommodation available for sale or use to a buyer.

¹⁴ “Accommodations intermediary” means a person, other than an accommodations provider, who facilitates the sale or use of an accommodation and charges a buyer the taxable price for the accommodation.

¹⁵ Tax-General Article §§ 11-102(b); 11-104(e).

¹⁶ Tax-General Article § 11-231.

¹⁷ Tax-General Article § 11-201. See Business Tax Tip #11 for additional information on agricultural products.

- Fabrication, processing, or service, by a sawmill, of wood products for farm use in which the farmer retains title
- Farm equipment when used to:
 - raise livestock
 - prepare, irrigate, or tend the soil
 - plant, service, harvest, store, clean, dry, or transport seeds or crops

Farm equipment that is used for traditional agricultural purposes is exempt from sales and use tax even if attached to real property. Examples of farm equipment include:

- | | |
|-----------------------------|--------------------------|
| ▪ Balers | ▪ Drags |
| ▪ Forage harvesters | ▪ Scales |
| ▪ Beekeeping equipment | ▪ Drills |
| ▪ Grain handling equipment | ▪ Rotary |
| ▪ Binders | ▪ Hoes |
| ▪ Haybines | ▪ Dryers |
| ▪ Blowers | ▪ Seed cleaners |
| ▪ Irrigation equipment | ▪ Dusters |
| ▪ Choppers | ▪ Seeders |
| ▪ Livestock/poultry fans | ▪ Egg handling equipment |
| ▪ Conveyers | ▪ Shellers |
| ▪ Milk cans | ▪ Elevators |
| ▪ Corral Handling Equipment | ▪ Sorters |
| ▪ Milking machines | ▪ Farm graders |
| ▪ Cribs | ▪ Sprayers |
| ▪ Milk coolers | ▪ Farm loaders |
| ▪ Crushers | ▪ Storage tanks |
| ▪ Mowers | ▪ Farrowing crates |
| ▪ Cultipackers | ▪ Subsoilers |
| ▪ Poultry equipment | ▪ Feed grinders |
| ▪ Diggers | ▪ Vaccinating panels |
| ▪ Rollers | ▪ Feeders |

Sales of hand tools, carpentry, cleaning and maintenance supplies, materials to be incorporated into real property, and materials purchased for personal, rather than agricultural use, are subject to the sales and use tax. The following are examples of non-exempt items:

- Antifreeze
- Barbed wire
- Pails
- Brooms
- Paint
- Cement
- Paint brushes
- Clothing
- Posthole diggers
- Detergents
- Pruners
- Electric drills
- Rakes
- Three-wheeled vehicles
- Fencing material
- Riding lawnmowers
- General water systems
- Roofing materials
- Hammers
- Sandpaper
- Home appliances
- Saws
- Incinerators
- Shovels
- Light bulbs
- Snow blowers
- Lubricants

D. Baby and Children's Supplies

The sale of clothing, equipment, furniture, and supplies for the care of babies and children is generally subject to sale and use tax. The following is a list of taxable items:

- Accessories, such as nursing bottles, liners, nipples, teething beads, teethingers, etc.
- Bibs
- Car seats, infant
- Crib blankets
- Diaper bags
- Diaper pins
- Diapers, cloth and disposable, for babies and infants
- Diaper service
- Furniture including cribs, high chairs and booster seats
- Baby video monitors
- Receiving blankets for infants
- Rubber pants
- Wipes, baby

The sale of items manufactured for initiating, supporting, or sustaining breast-feeding is exempt from sales and use tax.¹⁸ A sale of the following items is not subject to sales and use tax:

¹⁸ Tax-General Article § 11-211(b)(19).

- Breast pumps
- Breast pump kits
- Nipple enhancers
- Breast shields
- Breast shells
- Supplemental nursing systems
- Softcup feeders
- Feeding tubes
- Breast milk storage bags
- Periodontal syringes
- Finger feeders
- Haberman feeders
- Purified lanolin

The sale of the following items is also not subject to sales and use tax:

- Baby oil
- Baby powder
- Diaper cream
- Infant breathing monitors
- Formula

E. Books, Magazines, Newspapers, Periodicals and other Products

Sales and use tax is imposed on the sale of books, magazines, newspapers, periodicals, and other similar products. Tax is imposed whether the item is printed on tangible personal property, transferred by other physical means, or if transferred electronically, streamed or accessed. A sale of the following items is subject to sales and use tax:

- Bibles
- Books or E-books
- Comic books
- Crossword and game books
- Dictionaries
- Greeting Cards
- Invitations
- Magazines
- Direct mail advertising distributed in-State
- Mail order catalogues distributed in-State
- Newspapers distributed by the publisher at a charge
- Periodicals
- Photographs
- Subscription Lists
- Textbooks
- Yearbooks

The sale of the following items is exempt from sales and use tax even if transferred by physical means:

- Newspapers that are distributed by the publisher at no charge on at least a monthly basis
- Direct mail advertising literature and mail order catalogues that will be distributed outside the State
- Computerized mailing lists to the extent used for providing addresses to which direct mail advertising literature and mail order catalogues will be distributed outside the State
- Government documents, publications, records, or copies by the federal or State or a local government or an instrumentality of the federal or State or a local government

F. Caterers

In general, a licensed caterer's charges for food, beverages, and any services provided for a customer's specific event are subject to sales tax.¹⁹ However, there is exemption from sales and use tax for certain purchases made by licensed caterers.

Exemption for Caterers

Sales and use tax does not apply to purchases of materials, equipment, or supplies made by a licensed caterer if the materials, equipment or supplies meet all the following conditions:

- 1) are to be used by the caterer to perform a contract for catering services; and
- 2) are intended for resale by the caterer; and
- 3) are to be used directly and predominantly by the caterer performing a catering contract that includes the provision of food and beverages.²⁰

The exemption only applies to licensed caterers. A licensed caterer is:

- any business or individual that offers catering services in connection with a specific event;
- is not primarily engaged in the preparation and service of food to the general public at the facility; and
- holds a food service facility license issued by the Department of Health and Human Services.

¹⁹ Please see Tax Tip – Sales and Use Tax Exemption for Caterers available at the following link: https://marylandtaxes.gov/forms/Business_Tax_Tips/bustip27.pdf

²⁰ Chapter 644 of the Acts of 2020, took effect on July 1, 2020.

Qualifying Items

- Tents, temporary carpeting and flooring
- Generators, HVAC Systems, portable restrooms
- Lighting
- Audio or visual equipment
- Pipe and drape
- Fresh flower arrangements and live plants acquired by the caterer under a contract with its customers that provides the customer with the right to take the fresh flower arrangements and live plants with them at the conclusion of the event
- Decorations and balloons
- Ice sculptures
- Games and other children's activities, photo booths, casino tables and services
- Costumes (but not standard uniforms for staff)
- Security services

Items That Do Not Qualify for the Exemption

- Linens, tablecloths, chair covers, napkins, and other coverings
- Tables, chairs, portable bars, tray tables
- China, silverware, utensils, tabletop and glass rentals;
- Items used in preparing and serving the meal, such as chafing dishes, trays, sterno, pots, pans, containers, serving utensils, food heating and chilling devices, and ice
- Items used to deliver the food and supplies, including any vehicles, boxes, and containers
- Items used in the clean-up of the party, event or function, including cleaning agents, trash bags, trash cans, and other waste receptacles, mops, brooms, vacuums, buckets, sponges, and cloths
- Uniforms for servers and other employees
- Fountains, slides, luges, fondue equipment and other items that are used to provide or serve any food or drink
- Any purchases that are returned to the caterer's inventory for use at other parties, events, or functions.

G. Clothing, Footwear and Accessory Items

Generally, the sale of all clothing, footwear and accessory items is subject to sales and use tax. There is a limited exemption for sales of clothing and footwear during Tax-Free Week

for Back-to-School Shopping.²¹ The sale of clothing that qualifies as a medical supply would also be exempt from sales and use tax.

Clothing, Footwear, and Accessories

The following is a non-exhaustive list of clothing, footwear, and accessory items the sale of which is subject to sales and use tax:

- Aprons
- Athletic wear
- Belts
- Belt buckles
- Briefcases
- Bridal apparel and accessories
- Coats
- Corsages and boutonnieres
- Halloween Costumes
- Dress shirts
- Fur real or imitation
- Gloves
- Graduation caps and gowns
- Handbags
- Handkerchiefs
- Hats
- Headbands
- Hosiery
- Pantyhose
- Hunting clothing
- Leotards and tights
- Leather wearing apparel
- Lingerie
- Luggage
- Nightgowns
- Pajamas
- Pants
- Pocket squares
- Prom dresses
- Purses
- Raincoats
- Safety clothing
- Scarves
- Scout uniforms
- Scrubs
- Shoes, all types
- Shoe laces
- Shoe dye and polish
- Shoe trees
- Shoe soles and heels for shoe repair
- Suspenders
- Stockings
- Support-hose
- Swimming Suits
- Ties
- T-shirts
- Tuxedos
- Underwear
- Wallets and billfolds
- Watches and watchbands
- Work clothes
- Umbrellas
- Uniforms

²¹ Please see Section IV, A. of this document and Tax-General Article § 11-228 for more information on this exemption.

H. Computer Hardware and Software

Computer Hardware

Generally, tax is imposed upon the sale or use of computer hardware. The following is a list of computer hardware the sale of which is subject to sales and use tax:

- Cellular telephones, smartphones, and accessories
- Computer tablets, e-readers, and accessories
- Desktop computer hardware and accessories such as monitors, keyboards, and mouse devices
- GPS navigation equipment services
- Laptop computers
- Satellite radio equipment
- Video and Audio Equipment
- Video Game Equipment

Computer Software

The sale of canned software products accessed by physical medium such as a CD-ROM, load-and-leave software, etc. is subject to sales and use tax. Canned software is software that is not designed, created and developed for and to the specifications of an original purchaser.

Sales and use tax does not apply to a sale of custom computer software services relating to procedures and programs.²² Sales and use tax also does not apply to the sale of certain computer programs.²³

Digital Products and Digital Code

Effective March 14, 2021, the sales and use tax applies to the sale of a digital product or digital code. Please see Title IV. Digital Products and Digital Codes for more information.

I. Construction Materials

The sale of tangible personal property to a person who will use or resell it in the form of real property is taxable. Therefore, a person who constructs, improves, alters, or repairs

²² See Tax-General Article § 11-219.

²³ See Tax-General Article § 11-225.

real property shall pay sales and use tax on all materials purchased that will be incorporated into real property.

The retail sale or use of all equipment, tools, expendable supplies, and other items which are used to improve real property and are not incorporated into the realty, is subject to tax in all instances.

Exemption for Certain Organizations

A person who, because of a contractual obligation, purchases material that will be incorporated into the real property of a private, nonprofit charitable, educational, or religious organization, or volunteer fire, ambulance, or rescue company or squad, located in Maryland, may use the exemption certificate issued to the organization to purchase the material tax-free.²⁴

Signs

Signs are tangible personal property. Thus, the sale of a sign is generally subject to sales and use tax.²⁵ The following are examples of signs which, when installed, are subject to sales and use tax:

- Billboard signs
- Freestanding signs
- Signs affixed to a building
- Hanging signs
- Portable signs
- Posters
- Banners

The following signs are considered to be improvements to real property:

- Signs or plaques embedded into a wall or floor of a building with the intent to be permanent and which cannot be removed
- Street or traffic signs installed for governmental entities²⁶

²⁴ See COMAR 03.06.01.19 for additional information.

²⁵ See COMAR 03.06.01.36 for additional information on the sale of signs.

²⁶ COMAR 03.06.01.36(E).

Exemption for the Sale of Geothermal Equipment or Solar Energy Equipment

Sales and use tax does not apply to the sale of the following:²⁷

- Geothermal equipment
- Residential wind energy equipment
- Solar energy equipment

Exemption for Redevelopment Areas

Sales and use tax does not apply to a sale of construction material or warehousing equipment if the material or equipment is purchased by a person solely for use in a specified redevelopment area and the buyer provides the vendor with evidence of eligibility for the exemption issued by the Comptroller. The following is a list of specified redevelopment areas:

- a “target redevelopment area” in Baltimore County;²⁸
- a “qualified opportunity zone” in Baltimore County;²⁹
- the Laurel Park Racing Facility Site or Pimlico Site;³⁰ and
- a “target redevelopment area” in Washington County.³¹

J. Data Centers

Sales and use tax does not apply to a sale of qualified data center personal property for a use at a qualified data center if certain conditions and requirements are met.³² For additional information on the sales and use tax exemption for data centers, please see Tax Tip 28 - Sales and Use Tax Exemption for Personal Property Used to Establish or Operate Data Centers available at https://marylandtaxes.gov/forms/Business_Tax_Tips/bustip28.pdf

K. Eyewear

Generally, the sale of eyewear is subject to sales and use tax. Sales of the following items is subject to sales and use tax:

²⁷ See Tax-General Article § 11-230 and COMAR 03.06.01.43 for the definition of these items and additional guidance.

²⁸ Tax-General Article § 11-232.

²⁹ Tax-General Article § 11-238.

³⁰ Tax-General Article § 11-236.

³¹ Tax-Genera Article § 11-238.

³² Tax-General Article § 11-239.

- Binoculars
- Contact lenses cleaning solutions
- Magnifying glasses
- Opera glasses and field glasses
- Non-prescription or plano sunglasses

A sale of the following items is exempt from sales and use tax:

- Corrective contact lenses
- Eye drops or wetting solutions placed into the eye
- Corrective eyeglasses
- Corrective or prescription sunglasses

L. Flags

Maryland law provides an exemption from sales and use tax the sale of certain flags regardless of their size.³³ A sale of the following flags is exempt from sales and use tax:

- Maryland State flags
- United States flags
- Prison of war flags or missing in action flags honoring and remembering military personnel who have served in the armed forces of the United States

Sales and use tax applies to the sale of the following items:

- Other state flags
- Other country flags
- Novelty flags
- Any flag not specifically exempted by statute
- Other tangible personal property that has a Maryland, United States, POW, or MIA flag placed on the item

M. Food and Beverages

Sales and use tax is generally not imposed on food and beverages sold by a substantial grocery or market business unless it falls within the definition of food for immediate consumption or consumption on the premises of the buyer or a third party.³⁴ Sales of food and beverages made by other entities are subject to tax.

³³ Tax-General Article § 11-205.

³⁴ Tax-General § 11-206(c).

What Sales of Food are Exempt under Maryland Law?

Sales of food for consumption off the premises by a food vendor who operates a substantial grocery or market business at the same location where the food is sold. A substantial grocery or market business is one in which at least 10% of food sales are sales of grocery or market items.

Grocery or market food items include the following:

- Beverages, but not including alcoholic beverages, bottled water, carbonated beverages, and soft drinks, including drinks that contain less than 10% fruit or vegetable juices
- Condiments, herbs, jams, jellies, spices, syrups, and other flavorings
- Dairy products, including frozen dairy products such as ice cream and frozen yogurt sold in quantities of one pint or larger, but not including items packaged or sold as ready-to-eat single servings
- Dietary and nutritional supplements and vitamins, whether in bar, liquid, powdered, tablet, or other form
- Eggs and egg substitutes
- Fruits, legumes, and vegetables, whether fresh, canned, frozen, or otherwise packaged or preserved
- Grains and flours and products made from these ingredients, including breads and bakery items, but not including items packaged or sold as ready-to-eat single servings
- Honey, sugar, and artificial sweeteners, but not including non-food items such as candy and confectioneries that contain these ingredients
- Meat, poultry, and seafood, unless in a heated or ready-to-eat state
- Prepared foods and meals that are not preheated or otherwise in a ready-to-eat state, such as canned soups, frozen dinners, refrigerated entrees, and similar items

Specific Food Items Exempt from Tax

The following are examples of items that are considered “food” and entitled to an exemption for sales and use tax.

- Artificial sweeteners
- Baby food

- Bakery products
- Baking products
- Bloody Mary mix or other drink mix that contains 10% or more vegetable or fruit juice
- Bread
- Brownies
- Butter
- Cereals
- Cheese puffs and curls
- Chocolate (for baking only)
- Cocoa
- Coconut
- Coffee
- Coffee creamers
- Coffee substitutes
- Condiments
- Cookies
- Corn chips
- Crabs
- Crackers
- Dehydrated fruit/vegetables
- Diet foods
- Dressings
- Eggs and egg products
- Extruded pretzels and chips
- Fats
- Flavorings (e.g. vanilla)
- Flour
- Food coloring
- Frozen desserts, yogurt, and ice cream sold in containers of one pint or larger
- Fish and fish products
- Fruits
- Fruit juices
- Grain and grain products
- Granola bars
- Gravies
- Health bars
- Herb
- Honey
- Ice cream
- Iced coffee
- Iced tea
- Instant breakfast mix
- Jams (fruit preserves)
- Jellies
- Lard
- Leavening agents
- Milk and milk products
- Meats and meat products
- Nuts and edible seeds
- Nutritional supplements
- Oils
- Oleomargarine
- Olives
- Peanut butter
- Peanuts
- Popped popcorn
- Pork rinds
- Potato chips and sticks
- Powdered drink mixes
- Poultry and poultry products
- Preservatives
- Pretzels
- Relishes
- Salad dressing and mixes
- Sandwich spreads
- Sauces
- Seasonings
- Seafood
- Soup
- Spices
- Syrups
- Sugar and sugar substitutes

- Tea
- Vanilla extract
- Vegetables
- Vegetable juices and oils
- Vitamins

Food Items Subject to Tax

Tax is imposed upon certain categories of food and beverage items even when sold from a food vendor who operates a substantial grocery or market business.³⁵ The following items are not considered food under Maryland law and thus, the sales of which are subject to sales and use tax:³⁶

- Alcoholic beverages³⁷
- Soft drinks
- Carbonated beverages
- Candy
- Confectionery
- Food for immediate consumption

Specific Food Items Subject to Tax

- | | |
|---|------------------------------|
| ▪ Alcoholic beverages | ▪ Caramel-coated popcorn |
| ▪ Beverages containing less than 10% of natural fruit juice | ▪ Caramels |
| ▪ Bottled water | ▪ Carbonated beverages |
| ▪ Candied Apples | ▪ Carbonated water |
| ▪ Candy and confectionery | ▪ Chewing gum |
| ▪ Chocolate-coated snack foods | ▪ Chocolate candy |
| ▪ Coated candy | ▪ Ice |
| ▪ Coffee (heated) | ▪ Ice cream cones |
| ▪ Donuts (heated) | ▪ Marshmallow |
| ▪ Energy drinks | ▪ Marshmallow Cream |
| ▪ Fountain drinks | ▪ Mineral Water |
| ▪ Fudge | ▪ Nonalcoholic beer or cider |
| ▪ Gatorade® | ▪ Pet foods |
| ▪ Honey-roasted nuts | ▪ Powerade® |
| | ▪ Seltzer water |

³⁵ The taxable price of the food includes all mark-up, costs, and overhead charges that are incorporated into the sales price of the food, regardless of whether itemized separately.

³⁶ Tax-General Article § 11-206(a)(4).

³⁷ The sales and use tax rate on the sale of alcoholic beverages is 9%.

- Soft drinks
- Tobacco products

Food for Immediate Consumption is Subject to Tax

Sales and use tax applies to the sale of food and beverage items that are available for immediate consumption. "Food for immediate consumption" is defined under Maryland law as:

- Food obtained from a salad, soup, or dessert bar
- Party platters
- Heated food
- Sandwiches suitable for immediate consumption
- Ice cream, frozen yogurt, and other frozen desserts, sold in containers of less than 1 pint

Food for immediate consumption is subject to tax regardless of whether sold for consumption on or off the premises of the vendor. In addition, any other food that is sold for consumption on the premises of the vendor or the premises of a third party but made available to the vendor for consumption of food is subject to tax. Any food item sold for consumption off premises by a vendor that does not qualify as a substantial grocery or market business is also taxable.

Salad, Soup or Dessert Bars

Food obtained from a salad, soup, dessert bar, or buffet is taxable whether served hot or cold.

Party Platters

Food that is prepared and arranged on a platter and is ready to be eaten is taxable whether the food is served hot or cold. Examples of party platters include:

- Cold cut and deli platters
- Fruit and vegetable platters
- Cookie platters
- Relish trays
- Seafood platters
- Sushi Trays

Heated Food

Heated food includes food that is cooked to order and food that is kept warm using heat lamps or other devices. Examples of heated foods are:

- Hot rotisserie chicken
- Food at a hot buffet
- Roller grilled hot dogs
- Pizza by the slice
- Warm roasted nuts, pretzels, and popcorn

Food that is cooked by a vendor and then packaged and refrigerated is not taxable if the food is not arranged on a plate or platter and sold for off-premises consumption. For example, a chicken cooked by a food store that is cooled, packaged, and sold from a refrigerated case is not taxable.

Sandwiches Suitable for Immediate Consumption

Sandwiches are suitable for immediate consumption regardless whether heated or unheated. However, frozen sandwiches are not ready for immediate consumption and thus, not subject to tax. The following are examples of taxable sandwiches:

- | | |
|---|--|
| ▪ BLTs (bacon, lettuce, and tomato sandwiches) | ▪ Croissant sandwiches |
| ▪ Club sandwiches | ▪ Flatbread sandwiches |
| ▪ Cold cuts | ▪ Breakfast sandwiches |
| ▪ Grilled cheese sandwiches | ▪ Gyros |
| ▪ Peanut butter and jelly sandwiches | ▪ Hamburgers and cheeseburgers |
| ▪ Egg, chicken, tuna salad sandwiches | ▪ Heroes, hoagies, subs, etc. |
| ▪ Bagel sandwiches (buttered, with spreads, or otherwise as a sandwich) | ▪ Hot dogs and sausages on buns, rolls, etc. |
| ▪ Burritos | ▪ Melt sandwiches |
| ▪ Cheesesteak subs | ▪ Open-faced sandwiches |
| | ▪ Panini sandwiches |
| | ▪ Reuben sandwiches |
| | ▪ Wraps and pita sandwiches |

Ice Cream, Frozen Yogurt and Other Frozen Desserts

Ice cream and frozen yogurt served in a cone or sundae is taxable. The taxability of sales of ice cream, frozen yogurt, and other frozen desserts sold in a container depends upon the size of each container sold. Thus, while the tax will apply to the sale of a single ice cream sandwich, it will not apply to a package of a dozen ice cream sandwiches containing one pint of ice cream or larger.

Sales of Exempt Food Items Combined with Taxable Food or Non-Food Items

If a food that is exempt from tax is sold in combination with a taxable food or non-food item, the entire charge is subject to sales tax. There is no allocation of the purchase price between taxable and non-taxable items. The following are examples of taxable combinations:

- Gift baskets containing food or a mix of food and alcohol
- Trail mix containing chocolate candy
- Prepackaged lunches with deli meat, crackers, and candy
- Food sold in combination with heated food

Sales Made with Food Stamps

Sales and use tax does not apply to eligible food purchased with federal food stamps.³⁸ Food stamp eligible food encompasses everything that is considered food for sales and use tax purposes, plus soft drinks, candy, confectionery, water, ice and otherwise taxable and prepared foods. However, food stamp eligible food does not include alcoholic beverages, tobacco, and hot foods for immediate consumption.

If a customer purchases both taxable and nontaxable food stamp eligible food with a combination of food stamps and cash, credit card or debit card, the vendor must apply the food stamps to the eligible taxable items first, and then any remaining food stamps to the eligible nontaxable items. After application of the food stamps, the balance of the eligible taxable items paid for with cash, credit card, or debit card is subject to tax.

N. Household Goods and Supplies

The sale of household goods and supplies is subject to sales and use tax. This is not a complete list, but the sale of the following items is subject to sales and use tax:

- | | |
|------------------|--------------|
| ▪ Air fresheners | ▪ Bedding |
| ▪ Aluminum foil | ▪ Bleaches |
| ▪ Ant traps | ▪ Boot caddy |
| ▪ Basin stoppers | ▪ Brooms |
| ▪ Batteries | ▪ Buckets |

³⁸ Tax-General Article § 11-206(b).

- Candles
- Car cleaners and waxes
- Charcoal
- Chemical removers
- Cleaners (septic tank, hand, oven, toilet bowl or tile)
- Cleansers
- Cloths
- Cloth laundry bags
- Cloth towels, dish, bath and hand
- Clothesline
- Clothespins
- Coat hangers
- Coffee filters
- Cookware, pots and pans
- Cutlery
- Decorations, household and yard
- Detergents
- Dinnerware
- Dishpans
- Door mat
- Drain opener
- Drinking glasses and straws
- Drop Cloths
- Dry cleaning kits
- Dryer sheets
- Extension cords
- Fabric Softeners
- Filters, disposable air
- Fire extinguishers
- Fly swatters and tapes
- Furnishings, furniture, accessories, and hardware
- Fuses
- Glass cleaners
- Glue
- Grills, and replacement parts, utensils and scrapers
- Hardware and tools
- Household linens, blankets
- Insecticide sprays
- Ironing board and covers
- Jars for canning and jar lids
- Light bulbs
- Lubricating oils
- Matches
- Metal and plastic cooking utensils and flatware
- Mops
- Moth balls and moth flakes
- Mouse traps
- Napkins
- Needles
- Notebooks
- Paints, brushes and painting equipment
- Paint removers
- Paper goods
- Place mats
- Plastic food bags and storage
- Plastic wraps
- Plates
- Polishes
- Presoaks
- Refrigerator deodorants
- Rubber gloves
- Rug shampoo
- Sandpaper
- Scouring pads
- Scrub brushes
- Shelf paper and liners
- Shoe brushes
- Soaps
- Sponges
- Spot removers and stain treatments

- Starch
- Steel wool
- Tablecloths
- Tape
- Thermometers
- Thermoses
- Thimbles
- Tie racks
- Tissue paper
- Toilet paper
- Toilet seat covers
- Towels
- Turpentine and paint thinner
- Vacuum cleaners, and disposable bags, parts
- Ventilating fans and equipment
- Water filters, replacement
- Wax applicators
- Wax paper
- Wax paraffin
- Wet wipes
- Whiteners
- Wrapping paper, ribbons, and bows
- Yarn

O. Medicine, Drugs, and Medical Supplies

Maryland law³⁹ specifically provides an exemption from sales and use tax for sales of the following:

- Drugs or medical supplies sold to or by a physician or hospital
- Medicine
- Disposable medical supplies
- Patient's medical records to the patient or the patient's representative.
- Health and physical aids
- Hygienic aids

Drugs or Medical Supplies Sold to or by a Physician or Hospital

Sales and use tax does not apply to drugs or medical supplies sold to or by a physician or a hospital.

Medicine

Medicine means a preparation or substance intended for use in the cure, mitigation, treatment, or prevention of illnesses.⁴⁰ The term includes:

- Drugs sold on prescription of physicians

³⁹ Tax-General Article § 11-211.

⁴⁰ COMAR 03.06.01.09.

- Drugs for which no prescription is required
- Proprietary and patent medicines

The following items are considered medicine:

- | | |
|---|--|
| ▪ Analgesics | ▪ Diet pills prescribed by a physician |
| ▪ Antacids | ▪ Eye ointment and washes |
| ▪ Anti-fungicides (topical, for use on the body) | ▪ Insulin |
| ▪ Aspirin | ▪ Laxatives and cathartics |
| ▪ Benzoin | ▪ Mercurochrome (antiseptic) |
| ▪ Burn ointment or lotion | ▪ Pain relievers, oral and topical |
| ▪ Calamine lotion | ▪ Pet medicines |
| ▪ Cough and cold items, cough drops, cough syrups | ▪ Prescribed drugs |
| | ▪ Suppositories |

A product that is primarily cosmetic in nature is not "medicine" even though it may contain medicinal properties. The following items are not considered medicine:

- | | |
|----------------------------------|-----------------------|
| ▪ Cosmetics | ▪ Personal Lubricants |
| ▪ Dentifrices | ▪ Deodorants |
| ▪ Shaving and hair care products | ▪ Skin care creams |
| ▪ Soaps | ▪ Cleansers |

Medical Cannabis

Sales and use tax does not apply to the sale of medical cannabis, medical cannabis concentrate, or a medical cannabis-infused product, by a licensed grower or licensed processor to a licensed dispensary, or a qualifying patient or caregiver.⁴¹ However, the sale of any equipment or paraphernalia necessary to consume or inhale medical cannabis is subject to sales and use tax.

Cannabidiol ("CBD") oil qualifies as medicine if:

- derived from a hemp plant;
- the product may be legally sold in Maryland;
- contains little or no tetrahydrocannabinol ("THC"); and

⁴¹ Health – General Article § 13-3301; COMAR 10.62.01.01.

- the intended purpose of the product is to treat medical or health issues.

CBD oil does not qualify as a medicine if:

- derived from a marijuana plant;
- the product is illegal for sale in Maryland;
- contains THC and has intoxicating effects
- is incorporated into a product that is primarily sold for cosmetic purposes;
- is incorporated into a candy or confectionary; or
- is incorporated into a taxable product.

Disposable Medical Supplies

Disposable medical supplies are medical supplies consumed in a single usage. Skin care creams and cleansers are not disposable medical supplies. The following is a list of exempt disposable medical supplies:

- | | |
|---|---|
| ▪ Adhesives | ▪ Gloves - single use, if intended for medical use |
| ▪ Antiseptics | ▪ Hot water bottles - single use |
| ▪ Bandages, dressings - single use, medical | ▪ Ice bags, single use, if intended for medical use |
| ▪ Bed drain bags - single use | ▪ Incontinence products and garments for adults, single use |
| ▪ Catheters, medical - single use | ▪ Intravenous tubing, single use |
| ▪ Corn pads and plasters for the removal of corns | ▪ Needles, single use |
| ▪ Dental supplies - single use | ▪ Prophylactics |
| ▪ Diabetic test strips | ▪ Specimen containers, single use |
| ▪ Drapes - single use, if intended for medical use | ▪ Styptic pencils |
| ▪ Emesis basins or pans, single use | ▪ Thermometer covers, single use |
| ▪ Gauze, cotton balls, swabs, if intended for medical use | ▪ Tongue depressor, single use |
| | ▪ Urine drain bag, single use |
| | ▪ X-ray film, supplies |

Patient's Medical Records Sold to the Patient or Representative

Sales and use tax does not apply to the sale of a patient's medical records to the patient or the patient's representative.

Health and Physical Aids

Maryland law specifically exempts the following health and physical aids:

- Hemodialysis drug or device, sold by a licensed pharmacist or by a person who holds a permit under § 12-603 of the Health Occupations Article, directly to a hemodialysis patient requiring regular home treatment
- Tangible personal property that is manufactured or adapted specifically to compensate for blindness, including the following:
 - braille slates and paper
 - items with braille markings
 - preset insulin syringes
 - raised line drawing kit
- Decoder for captioned television programs for use by a hearing-impaired individual
- A telecommunications device that is adapted specifically for hearing-impaired individuals and is:
 - a device that changes digital codes into tones for transmission through telephone lines
 - a flashing signal device
 - a telebraille machine
- Artificial eye, hearing device, or limb
- Colostomy or ileostomy appliance
- Corrective eyeglasses
- Orthopedic or surgical appliance prescribed by a physician and designed to be worn on the person of the user
- Battery for an artificial hearing device or larynx, transcutaneous nerve stimulator, or electrically powered wheelchair
- A custom-made earmold for an artificial hearing device
- A battery charger for an artificial hearing device
- A receiver for an artificial hearing device
- Crutches
- Wheelchair
- Hospital bed
- Oxygen tent
- Any other sickroom equipment that the Comptroller defines by regulations or medical equipment that:
 - can withstand repeated use;
 - is used exclusively to serve a medical purpose;
 - is not useful to a person in the absence of illness or injury; and
 - is for use in the home or on the individual's person
- Tangible personal property for installation in a motor vehicle:

- to provide access to the motor vehicle by an individual with a disability; or
- to permit an individual with a disability to operate the motor vehicle
- Wig or hairpiece needed as a result of documented medical or surgical treatment
- Nicotine patches, nicotine gum, or any other product intended for use as an aid in tobacco use cessation and approved by the United States Food and Drug Administration for that purpose
- Tangible personal property that is manufactured for the purpose of initiating, supporting, or sustaining breast-feeding, including breast pumps, breast pump kits, nipple enhancers, breast shields, breast shells, supplemental nursing systems, softcup feeders, feeding tubes, breast milk storage bags, periodontal syringes, finger feeders, haberman feeders, and purified lanolin.

Medical Equipment

A sale of medical equipment is exempt from sales and use tax if the equipment:⁴²

- can withstand repeated use;
- is used exclusively to serve a medical purpose;
- is not useful to a person in the absence of illness or injury; and
- is for use in the home or on the individual's person.⁴³

Medical equipment and sickroom equipment as defined by regulation,⁴⁴ includes, but is not limited to, the following items:

- | | |
|---|--|
| ▪ Overbed table | ▪ Patient lifts |
| ▪ Wheelchair tray | ▪ Geriatric chair |
| ▪ Pressure or pressure sore relief products | ▪ Thermophores, heating pads, cervical pads, cervical pillows, medical corsets, elastic bandages |
| ▪ Bath and toilet safety products | ▪ All types of braces, pads, cervical pillows, medical corsets, elastic bandages |
| ▪ Respiratory equipment | ▪ Stairlifts, unless installed in such a manner as to become part of the real property |
| ▪ Trapeze bar | |
| ▪ Traction equipment | |
| ▪ Apnea monitors, infant breathing monitors, blood glucose monitors, and heart monitors | |

⁴² Tax-General Article § 11-211(b)(15).

⁴³ The sale of medical equipment is subject to tax if it is not sold for use in home or on an individual's person. Thus, the sale of medical equipment is subject to sale and use tax if sold to a physician or other medical professional.

⁴⁴ COMAR 03.06.01.09(b).

The following medical equipment is exempt if sold for use in the home⁴⁵ or on the individual's person:

- Artificial limbs
- Bed pans
- Bed trapeze bars
- Blood glucose monitors
- Casts or supports worn on person
- Breathing units or ventilators
- Cardiac emergency kit
- Cardiac pacemakers and electrodes, worn on person
- Commodes for incapacitated persons
- Continuous motion device
- Defibrillators
- Dentures, dental braces, and other prostheses that are worn on the person
- Durable bed drain bags
- Elastic bandages and braces
- Feeding tubes
- Fluidic breathing assistor
- Geriatric chair
- Haberman feeder
- Heart monitors
- Hot water bottles
- Infusion pumps
- Inhalation therapy equipment and equipment used to provide emergency breathing assistance
- Lymphedema pumps
- Medical corsets
- Nasal cannula
- Orthopedic insoles
- Oxygen and oxygen equipment
- Oxygen tent
- Patient lifts
- Stair glides or lifts for persons having a physical disability unless installed in such a manner that it is incorporated into real property
- Thermophores
- Tourniquets
- Traction equipment

The Comptroller's office has determined that the following items are not considered medical equipment:⁴⁶

- Lift chairs
- Exercise equipment
- Air conditioners
- Humidifiers
- Dehumidifiers
- Vibrators
- Massagers
- Bedside cabinets
- Receptacles for medical waste
- Blood pressure devices
- Thermometers
- Scales of any type
- Devices used to obtain or monitor pulse or respiration,

⁴⁵ See COMAR 03.06.01.09(d).

⁴⁶ COMAR 03.06.01.09(c).

such as pulse oximeters, control diascans, Doppler diagnostic equipment, and mini-Dopplers

Hygienic Aids

Maryland Law exempts the sale of hygienic aids from sales and use tax.⁴⁷ Hygienic aids include the following:

- Baby oil
- Baby powder
- Sanitary pads
- Tampons
- Menstrual sponges
- Menstrual cups or other similar feminine hygiene products

P. Mobile Homes and Modular Buildings

Sales and use tax applies to sales of new manufactured or mobile homes.⁴⁸ The sales and use tax only applies to 60% of the taxable price. Sales of used manufactured or mobile homes are exempt.

Sales and use tax also applies to 60% of the taxable price for the sale of a modular building. “Modular building” includes single-family or multifamily houses, apartment units, or commercial buildings, and permanent additions to single-family or multifamily houses, apartment units, or commercial buildings, comprised of one or more sections that are:

- intended to become real property;
- primarily constructed at a location other than the permanent site at which they are to be assembled;
- built to comply with the standards for industrialized buildings under Title 12, Subtitle 3 of the Public Safety Article; and
- shipped with most permanent components in place.

Q. Motor Fuel

Motor fuel and other fuel is subject to the motor fuel tax and not sales and use tax. However, the retail sale of dyed diesel fuel is made by a marina is subject to sales and use tax. The tax rate is 6%, applied to 94.5% of the gross receipts from the dyed diesel fuel

⁴⁷ Tax-General Article § 11-211(c).

⁴⁸ See Public Safety Article 12-301(g) for the definition of a manufactured or mobile homes.

sale. Sales and use tax does not apply to a sale of fuel for use in farm equipment or a farm tractor.⁴⁹ Sales and use tax also does not apply to the sale of diesel fuel for use in reclamation of land that has been mined for coal by strip or open-pit mining.⁵⁰

R. Office Supplies and Equipment

Generally, the sale of office supplies and equipment is subject to sales and use tax. For example, the sale of the following items is subject to sales and use tax:

- Office furniture
- Computers, printers, and copiers
- Office supplies such as paper, pens, pencils, stationary, etc.

S. Pets

Generally, the sale of pets and pet related products, whether sold to or by a veterinarian, is subject to sales and use tax. The sale of pet related services including boarding, sitting, walking, grooming, pet cremation and burial services, and veterinarian services is generally not subject to sales and use tax. The following is a list of taxable items:

- | | |
|---|---|
| ▪ Clippers and clipper lubricants | ▪ Grooming products |
| ▪ Collars | ▪ Pet caskets and urns |
| ▪ Leashes | ▪ Sale or rental of pets, or adoption from shelters |
| ▪ Toys | ▪ Shampoo |
| ▪ Flea collars, flea powder, flea and tick soap and tick sprays | ▪ Veterinarian equipment |
| ▪ Food, including food supplements and prescription food | ▪ Vitamins |

Veterinarians

Medicine and disposable medical supplies purchased for animals are exempt from sales and use tax regardless of the purchaser. The Comptroller's Office has exercised its authority to define physicians to include veterinarians. Therefore, a sale, to or by a veterinarian of drugs or medical supplies is exempt from sales and use tax. However, not all pet supplies sold to or by a veterinarian are exempt. For example, the sale of prescription diet food for pets and the sale of flea and tick powders, collars and sprays does not qualify for the medicine or medical supplies exemption. Fees for shots, spaying or

⁴⁹ Farm equipment or tractor as defined by §§ 11-120 and 11-121 of the Transportation Article.

⁵⁰ Tax-General Article § 11-212.

neutering are not subject to tax, unless they are mandatory charges and a condition of the sale of a pet.

T. Personal Hygiene and Cosmetic Products

The sale of cosmetics, dentifrices, shaving and hair care products, soaps, deodorants, or skin care creams or cleansers is subject to sales and use tax. A product that is primarily cosmetic in nature is not "medicine" even though it may contain medicinal properties. The following items are taxable items:

- After shave creams, lotions, powders
- Antiperspirants
- Aromatherapy products (Candles, oils, washes, etc.)
- Atomizers containing perfume and other liquids
- Bath milks, oils, powders, salts, tablets, crystals, etc.
- Bath and shower gels and body shampoos
- Bleach creams and lotions
- Blush, rouges
- Body lotion and creams
- Breath fresheners and breath sprays
- Bubble bath preparations
- Cocoa butter, if advertised or labeled for cosmetic purposes
- Colognes
- Compacts containing blush or powder, compact refills
- Cosmetics
- Creams, cleansing, beauty or cold
- Cuticle softeners and removers
- Deodorants
- Dusting powders
- Eye shadows, eyeliner
- Eyebrow pencils
- Eyelash mascara and eyelash and brow dyes
- Face lotions, facial oils, face creams
- Face packs
- Face powders, in loose or cake and liquid form
- Foundation makeup
- Freckle removers, vanishing creams
- Hair conditioners and rinses
- Hair dyes, colorings, tints, rinses and bleaches
- Hair gels and mousse
- Hair oils
- Hair removers
- Hair restorative medications
- Hair straighteners
- Hair straightening lotions, creams, conditioners and rinses
- Hairdressings, lotions, tonics and pomades
- Hairsprays
- Hand lotions, creams and sanitizers
- Lip balm and ointments
- Lipsticks, lipstick refills, liquid lip color, lip liner and lip gloss
- Lotions, cleansing and beauty

- Makeup remover
- Manicure preparations and kits
- Mask preparations
- Massage creams
- Nail bleaches
- Nail polish removers
- Nail polishes, nail lacquers, nail enamel
- Perfume novelties, containing perfume
- Perfumes and perfume ingredient kits
- Permanent waving creams, lotions, neutralizer and kits
- Powder bases (liquid, cream and pressed)
- Sachets containing powder or aroma producing materials
- Scalp lotions, which are used or intended for use as a treatment for dry or oily hair
- Shampoos
- Shaving preparations, creams, lotions, powders, including medicated preparations
- Skin balms, bleaches, creams, fresheners, lotions, oils tonics or whiteners
- Toothbrush
- Toothpaste
- Tooth cleaners
- Dental floss
- Replacement brushes for electric toothbrush
- Water picks
- Wave set, paste, powder or lotion
- Wrinkle removing and concealing preparations
- Blow-dryers
- Hair goods and notions, such as barrettes, hair pins, hair nets, curlers, clips, hair bow holders, combs, brushes, chignons, bandeaux
- Irons, curling and flat
- Shower caps
- Hair extensions, wigs and toupees unless needed because of documented medical or surgical treatment

The sale of the following items is not subject to sales and use tax:

- Adult diapers
- Baby oil
- Talcum or baby powder
- Menstrual pads, cups, etc.
- Mouthwash, antiseptic or anticavity
- Sanitary napkins
- Tampons

U. Precious Metal Bullion and Coins

Sales and use tax applies to any sale of “precious metal bullion or coins” if the sale price is equal to or less than \$1,000. Precious metal bullion or coins does not include jewelry or a work of art made of precious metal bullion or coins.

V. Rental of Equipment

The lease or rental of tangible personal property is considered a sale and subject to sales and use tax.⁵¹

W. Restaurant Equipment and Supplies

The sale of equipment and tools for use in the production, preparation and service of food is generally taxable. This is not a complete list, but the sale of the following items is subject to sales and use tax:

- Carbonator for soda fountain operation
- Cleaning Supplies
- Chairs
- Chef Hats
- Dishware
- Disposable trays
- Disposable containers, napkins, straws, utensils, stirrers, and wrappers made available for discretionary use
- Equipment used to prepare and serve food and beverages
- Ice making equipment
- Linens, napkins and tablecloths
- Latex gloves
- Placemats
- Tables
- Toothpicks
- Vending machines and equipment
- Work uniforms

General Exemptions

The sale of the following items is not subject to sales and use tax if purchased for resale to customers:

- Carbon dioxide for soda fountain
- Paper plates, bowls, cups, lids, wrapping supplies and similar articles by a food server for use as containers for food

⁵¹ See COMAR 03.06.01.28, and Tax-General Article § 4-101(b)(iv) regarding recreational and sports equipment.

Sales and use tax does not apply to a sale of equipment that is used by a retail food vendor to manufacture or process bread or bakery goods for resale if:

- (1) the taxable price of each piece of equipment is at least \$2,000; and
- (2) the retail food vendor operates a substantial grocery or market business at the same location where the food is sold.

X. Seafood Harvesting Equipment

The sales and use tax does not apply to a sale of the following seafood or marine harvesting equipment:

- Clam or oyster rake, crab bait, crab or eel pot, or fish net
- Dredge, handscrape, or hand or patent tong
- Fuel or a repair part for a commercial fishing vessel or for a vessel otherwise used for commercial purposes⁵²

Y. Tobacco Products and Electronic Smoking Devices

The sale of tobacco products is subject to sales and use tax. The sale of the following items is subject to sales and use tax:

- Tobacco and chewing tobacco, all types
- Cigarettes
- Cigars, all types
- Electronic cigarettes and vaporizers, and accessories
- Smoking accessories, including lighters

Electronic Smoking Devices

Effective March 14, 2021, the sale of electronic smoking devices is subject to sales and use tax at a rate of 12%. An electronic smoking device is “a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device.”^[1] Electronic smoking devices include the following items:

- an electronic cigarette
- an electronic cigar
- an electronic cigarillo
- an electronic pipe

⁵² Tax-General Article § 11-218.

[1]

- an electronic hookah
- a vape pen
- vaping liquid⁵³
- any component, part, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device.⁵⁴

The sales and use tax rate for vaping liquid sold in a container that contains five milliliters or less of vaping liquid is 60% of the taxable price. If an electronic smoking device is sold bundled with a container that contains five milliliters or less of vaping liquid, then the entire sales price is subject to sales and use tax rate of 12%. If a vaping liquid is sold in a disposable cartridge or similar device as part of a closed system, the tax rate is 12% regardless of the amount of vaping liquid is contained in that device.

Z. Electricity, Fuel, Utilities and Equipment

The sale of the following is subject to sales and use tax:

- | | |
|---------------|-----------------------------|
| ▪ Electricity | ▪ Nuclear fuel assemblies |
| ▪ Fuel | ▪ Steam |
| ▪ Coal | ▪ Artificial or natural gas |
| ▪ Oil | ▪ Wood |

Exemptions for Residential Buyers

Maryland law exempts sales of the following items to residential buyers:⁵⁵

- Sale of electricity, steam, or artificial or natural gas for use in residential condominiums
- Sale of electricity, steam, or artificial or natural gas that is delivered under a residential or domestic rate schedule on file with the Public Service Commission
- Sale of coal, firewood, heating oil, or propane gas or similar liquefied gas for use in residential property that contains not more than 4 units, cooperative housing, condominiums, or other similar residential living arrangements
- Sale of electricity through 3 or more bulk meters for use in a nonprofit planned retirement community of more than 2,000 housing cooperative or condominium units if:
 - ownership of units is restricted by age;

⁵³ Business Regulation Article § 16.7-101(c)(1).

⁵⁴ Business Regulation Article § 16.7-101(c)(2).

⁵⁵ Tax-General Article § 11-207.

- any unit is served by an individual meter; and
- on or before July 1, 1979, at least 3 bulk meters served the community
- Sale of electricity generated by solar energy equipment or residential wind energy equipment for use in residential property owned by an eligible customer- generator.
- Wood or wood bark or residue if used for heating purposes
- Refuse-derived fuel used for heating purposes

Exemptions for Non-Residential or Commercial Use

Maryland law exempts sales of the following items for nonresidential or commercial use:

- Electricity, fuel, and other utilities used to operate machinery or equipment predominantly used in a production activity
- Electricity, fuel, and other utilities used to operate machinery or equipment used to produce bituminous concrete
- Electricity, fuel, and other utilities used to operate machinery or equipment used directly and predominantly to produce Energy Star windows or Energy Star entry doors for residential real property
- Electricity, fuel, and other utilities used to operate machinery or equipment used to produce snow for commercial purposes

Sales of Water

The sale of water delivered to a buyer through pipes or conduits is not subject to sales and use tax.⁵⁶ However, sales and use tax applies to all other sales of water, whether sold in bottles, delivered by truck, etc.

Geothermal and Solar Energy Equipment

The sale of geothermal equipment, residential wind energy equipment, or solar energy equipment is not subject to sales and use tax.⁵⁷

Electric Vehicles

Electricity purchased to charge a vehicle at home is not subject to the sales and use tax if purchased at a residential rate. The sale of electricity at a charging station to charge a vehicle is subject to sales tax. The purchase of the electricity by the provider of the charging equipment is for resale and not subject to sales and use tax. However, the purchase of electricity is subject to tax by the provider of a free charging station.

⁵⁶ Tax-General Article § 11-224.

⁵⁷ Please see Tax-General Article § 11-230 for additional information on this exemption.

AA. Vehicle Rentals and Sales

Sales and use tax applies to charges for:

- A short-term vehicle rental⁵⁸
- Vehicle rentals from more than 180 days to less than 1 year
- Shared motor vehicle used for peer-to-peer car sharing and made available on a peer-to-peer car sharing program⁵⁹

The sale of a motor vehicle is not subject to sales and use tax if the sale is subject to motor vehicle excise tax under Transportation Article § 13-809 or § 13-811.⁶⁰

BB. Vending Machines Sales

In general, sales and use tax applies to sales of goods and taxable services made through a vending machine. A retail sale made through a vending or other self-service machine is subject to the sales and use tax rate of 6%, applied to 94.5% of the gross receipts from the machine. However, the following sales made through vending machines are exempt:

Bulk Vending Exemption

Sales are exempt from sales and use tax if the sale is for 75 cents or less and from a bulk vending machine that:

- (1) contains unsorted merchandise; and
- (2) on insertion of a coin, dispenses the unsorted merchandise in approximately equal portions at random and without selection by the customer⁶¹

Exemption for Snack Food Sold Through a Vending Machine

Sales and use tax does not apply to the sale of snack food through a vending machine. "Snack food" means:

- potato chips and sticks
- corn chips
- pretzels
- cheese puffs and curls

⁵⁸ The sales and use tax rate is 11.5% for short-term vehicle rentals. Please see Tax-General Article § 11-104(c). For short-term vehicle rentals, sales and use tax applies to all sales and charges, including insurance, freight handling, equipment and supplies, delivery and pickup, cellular telephone, and other accessories.

⁵⁹ Peer-to-peer car sharing program as defined by Insurance Article § 19-520. The sales and use tax rate is 8% for short-term vehicle rentals.

⁶⁰ Tax-General Article § 11-221(a)(4).

⁶¹ Tax-General Article § 11-201.1

- pork rinds
- extruded pretzels and chips
- popped popcorn
- nuts and edible seeds
- snack mixtures that contain any one or more of the foods listed in this subsection

Exemption for Milk, Fresh Fruit, Fresh Vegetables, and Yogurt Sold Through a Vending Machine

Sales and use tax does not apply to the sale through a vending machine of milk, fresh fruit, fresh vegetables, or yogurt.

IV. Digital Products and Digital Code

A. Digital Products

Effective March 14, 2021, Maryland sales and use tax applies to the sale of a digital product and digital code. The applicable sales and use tax rate on sales of digital products and digital codes is 6%. For additional information on the sale of a digital product and digital code, please see [Business Tax Tip #29 Sales of Digital Products and Digital Code](#).

A digital product is a product that is obtained electronically by the buyer or delivered by means other than tangible storage media using technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.⁶² Digital products include the following:

- A work that results from the fixation of a series of sounds that are transferred electronically, including:
 - Prerecorded or live music or performances; and
 - Readings of books or other written materials, and speeches
 - Audio greeting cards sent by e-mail;
- A digitized sound file such as ring tone, that is downloaded onto a device and may be used to alert the user of the device with respect to a communication;
- A series of related images that, when shown in succession, impart an impression of motion, together with any accompanying sounds that are transferred electronically, including motion pictures, musical videos, news and entertainment programs, live events, video greeting cards sent by e-mail, and video or electronic games;

⁶² Tax-General Article § 11-101(c-4)(1).

- A book, generally known as an “e-book”, that is transferred electronically; and
- A newspaper, magazine, periodical, chat room discussion, weblog, or any other similar product that is transferred electronically.⁶³

B. Digital Code

Digital code is defined under Maryland law as code that:

- may be obtained by any means;
 1. in a tangible form, such as a card; or
 2. through e-mail; and
- provides a buyer with a right to obtain one or more specified digital products.⁶⁴

Digital code can be obtained by any means including:

- Electronically through computer-mediated communications such as email, text, or messaging; or
- tangible form such as a card, imprint on a product or other storage product.

A “digital code” does *not* include a gift certificate or gift card with a monetary value that may be redeemable for an item other than a digital product.

C. Exemptions to the Sale of Digital Products

The sale of a digital product is subject to sales and use tax unless an exemption applies to the transaction. Therefore, sales and use tax exemptions apply to the sale of digital products unless the statute specifically exempts only tangible personal property, taxable services, or a specific item.

V. Special Situations That Affect Whether Sales of Tangible Personal Property, Taxable Services, Digital Products and Digital Codes are Subject to Sales and Use Tax

A sale of a good or service that is taxable under Maryland law may not be subject to sales and use tax depending on the time period that it is sold, to whom the item is sold, or by whom the item is sold.

⁶³ Tax-General Article § 11-101(c-4)(2).

⁶⁴

A. Sales During a Tax-Free Period

Shop Maryland Tax-Free Week

The second Sunday of August to the following Saturday is designated as Shop Maryland Tax-Free Week each year.⁶⁵ That means qualifying apparel and footwear \$100 or less, per item, are exempt from the state sales tax. The first \$40 of a backpack or bookbag purchase is also tax-free. Accessory items, except for backpacks, are not included.

Energy Star Products

There is a tax-free three-day weekend every February during which the state sales tax will not apply to the sale of any Energy Star Product listed below, or solar water heater.⁶⁶ An Energy Star Product means an air conditioner, clothes washer or dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, light-emitting diode (LED) light bulb, dehumidifier, or programmable thermostat that has been designated as meeting or exceeding the applicable Energy Star Efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

B. Exempt Charitable or Nonprofit Sales

A sale of a good, service or digital product that is taxable may not be subject to sales and use tax if sold to or by certain exempt, charitable, or nonprofit organizations.⁶⁷ The state of Maryland issues exemption certificates to properly qualified organizations.

C. Sales to Federal, State, and Local Governments

A sale of a good, taxable service or digital product to the federal government, the State of Maryland, or a political subdivision of the State of Maryland is not subject to sales and use tax.

Testing Equipment

Sales and use tax does not apply to the sale of deliverable end item testing equipment that is:

- used to perform a contract for the United States Department of Defense; and
- is to be transferred to the federal government under the terms of the contract, if the contract is awarded as a result of a bid submitted after June 1, 1986.⁶⁸

⁶⁵ Tax-General Article § 11-228; See COMAR .03.06.01.37.

⁶⁶ Tax-General Article § 11-226; See COMAR .03.06.01.44.

⁶⁷ See Tax-General Article § 11-204 and COMAR 03.06.01.22 for addition information.

⁶⁸ Tax-General Article § 11-222.

D. Parent-Teacher Organization Fundraisers

A sale of tangible personal property by any of the following organizations is exempt from the tax:

- A parent-teacher organization within an elementary or secondary school in the State
- A parent-teacher organization within a school system in the State
- An organization within an elementary or secondary school in the State
- An organization within a school system in the State⁶⁹

E. Property Used Directly in Film Production Activity

Sales and use tax does not apply to a sale of tangible personal property or a taxable service used directly in connection with a film production activity by a film producer or production company certified by the Department of Commerce.⁷⁰

The following tangible personal property, when sold to a certified film producer or film production company and used directly in connection with a film production activity, is exempt from sales and use tax:

- | | |
|--|--|
| ▪ Camera equipment, supplies, and accessories | ▪ Generators used to operate tax exempt lighting and stage equipment |
| ▪ Motion picture film and tape stock | ▪ Time code equipment |
| ▪ Digital discs and masters | ▪ VTR and digital editing equipment |
| ▪ Production facilities, including sound stage | ▪ Switchers |
| ▪ Lighting equipment and supplies, including bulbs and lamps | ▪ Character generators |
| ▪ Stage equipment and supplies | ▪ Sound equipment and supplies |
| ▪ Cranes, booms, dollies, and jibs | ▪ Costumes, wardrobes, and materials to construct them, including shoes and hairpieces |
| ▪ Electric stands, cables, and wires | ▪ Props, including materials and equipment to construct them |
| ▪ Make-up | ▪ Heating and air conditioning equipment not part of the realty and used on the set |
| ▪ Scenery, including materials and equipment to construct it | |
| ▪ Design supplies and equipment | |

⁶⁹ See COMAR 03.06.01.46 for additional guidance on this exemption.

⁷⁰ Tax-General Article § 11-227.

- Drafting and art supplies and equipment
- Special effects supplies and equipment
- Photographic film
- Animation supplies and equipment
- Computer graphics and images
- Video and sound recording equipment
- Equipment and supplies for dubbing, mixing, editing, and cutting
- Short-term vehicle rentals
- Separately stated charges for parts used to repair tax-exempt machinery and equipment

The following are examples of tangible personal property not eligible for the film production exemption:

- Office supplies and furniture
- Bottled water
- Catering of food and beverages
- Crew uniforms
- Flowers and plants used off-set
- Personal gifts
- Utilities
- Cell phones, pagers, and battery chargers
- Hotel rooms and lodging
- Shipping cases and packaging materials

The following services, when sold to a certified film producer or film production company and used directly in connection with a film production activity, are exempt from sales tax:

- Editing (film, digital or tape)
- Film processing
- Transfers of film to tape or digital format
- Foley services
- Multi-image services
- Sound mixing
- Voice-overs
- ADR/Looping
- Animation and special effects services
- Computer graphics services
- Photography on set
- Fabrication, printing, or production of scripts, storyboards, costumes, wardrobes, props, scenery, or special effects

The following are examples of services not eligible for the film production exemption:

- Catering services
- Bodyguard or security services
- Cleaning services
- Telephone answering services
- Mobile telecommunications services